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DATE OF DECISION 30.7.1987

Mrs. Rajkumari Chopra Advocate for the Respondent(s)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*

(S.P. Mukerji)
Administrative Member

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

D.A. No. 476/86

Sri D.D. Gauba

- Petitioner

vs

Union of India & ors

- Respondents

Sri R.K. Gauba

- Advocate for petitioner

Smt. Rajkumari Chopra

- Advocate for respondents

CORAM :

The Hon'ble Mr. S.P. Mukerji, Administrative Member

The Hon'ble Mr. Ch. Ramakrishna Rao, Judicial Member

JUDGEMENT

ORDER : (Delivered by Ch. Ramakrishna Rao, JM)

The applicant entered service in the Posts & Telegraphs Department as a class IV employee (Packer) on 15.7.1948. The applicant is a refugee displaced from Pakistan. His date of birth ('DOB' - for short) was entered in the service roll as 13.6.1929. Actually, it should have been entered as 7.4.1929. In fact, this was the DOB recorded in the matriculation certificate issued by the Punjab University in 1956. The respondents, however, declined to effect a change in the DOB in the service roll despite his requests in that behalf. Ultimately, the applicant was informed by the Post Master (Gazetted), Ramesh Nagar, New Delhi (Respondent 4 - R4) in and by the communication dated 10.3.1980 that the case of the applicant for alteration of his DOB was considered and rejected. Aggrieved by this order the applicant has filed this application.

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2. Shri T.K. Gauba, learned counsel for the applicant, contends that his client had told the Recording Officer ('RO') at the time of his appointment that he was over 19 years of age which was the minimum eligibility age; that his DOB was erroneously recorded as 13.6.1929; ~~and~~ ^{that} and that as he later ~~xxx~~ learnt from his father, his correct DOB was 7.4.1929; ^{that} he accordingly informed the authorities of the correct DOB in the context of his promotion to the cadre of Postman on 27.10.1950; that the change in the DOB was not effect^{-ed} as requested; that his client was surprised to know that he was superannuated on 30.6.1986 treating his DOB as 13.6.1928; that due to the rough quality of the paper used for recording the DOB, there was a blot in the circle below the numeral 9 in 1929 making it appear as 8 instead of 9 and R4 was therefore not justified in rejecting the case of his client for treating his DOB as 13.6.1928 when it should have been 7.4.1929.

3. Mrs. Rajkumari Chopra, learned counsel for the respondents, refutes the contention raised on behalf of the applicant and submits that the application is hit by delay and laches and is not maintainable since it has been filed just on the eve of his retirement from service; that the DOB was correctly entered in the service roll of the applicant as 13.6.1928; that the theory put forward by the applicant that the numeral 9 in 1929 became unidentifiable because of the overflow of the ink below the circle occurring in numeral 9 is far-fetched and the DOB recorded should be taken as 13.6.1928. Mrs. Chopra further submits that the

application for altering the DOB was not made within the period of five(5) years of joining service prescribed in Note 5 of F.R. 56; ^{that the} / DOB furnished by the applicant to the Punjab University at the time of his appearing for the matriculation examination is self-serving and cannot be relied upon; that, no request ~~DO xxx~~ as such, for effecting change in the DOB based on the entry in the matriculation certificate was ever made by the applicant until the fag end of his retirement and the present application has therefore no merits.

4. We have considered the rival contentions carefully. We have also perused the service roll of the applicant from which it appears that there is a spilling of the ink underneath the circle occuring in the numeral 9 in 1929 and thereby giving room for the impression that the year was noted as 1928 and not as 1929. But on closer scrutiny we are satisfied that the year was noted as 1929 and the spilling of the ink has made numeral 9 resemble 8. There is also a ring of truth in the statement of the applicant since he, of his own accord, came forward with a request to alter the DOB from 13.6.1929 to 7.4.1929 which ^{his} father had ~~stated to~~ ^{informed} him to be the correct DOB. In other words, it would have served the purpose of the applicant if he stuck to the original DOB without varying it to his detriment. Further, DOB given by the applicant as mentioned in the matriculation certificate cannot be brushed aside on the ground that it is self-serving and an after-thought since he happened to appear for the matriculation examination after he joined service.

5. Taking all the facts and circumstances into account, we are of the view that the present case is not one of alteration of the DOB originally entered in the service roll but one of determining the year entered in the service roll as 1928 or 1929. For the reasons given above, we consider that the DOB was originally noted as 13.6.1929. The applicant has stated in his application that he subsequently made an application for changing his DOB to 7.4.1929 and prayed for relief on the basis. We, therefore, accept the prayer of the applicant and direct the respondents to treat the applicant as having remained in service upto 30.4.1987 (AN).
6. In the result the application is allowed.

Ch. Ramakrishna Rao
(Ch. Ramakrishna Rao)
Judicial Member

S.P. Mukerji
30.7.87
(S.P. Mukerji)
Administrative Member